

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

SANDRA SHORT, A/K/A/ SANDY
SHORT, DAVID SHORT, A/K/A/
DAVE SHORT, SARAH
SARBACKER, AND DONALD
SHORT, A/K/A/ DON SHORT,

Plaintiffs,

v.

FEDERAL HIGHWAY
ADMINISTRATION,

Defendant,

BILLINGS COUNTY, NORTH
DAKOTA, AND NORTH DAKOTA
DEPARTMENT OF
TRANSPORTATION,

Intervenor-Defendants.

Case No. 1:19-cv-285-DMT-CRH

**PROPOSED JOINT SCHEDULING
PLAN**

Plaintiffs Sandra Short, David Short, Sarah Sarbacker, and Donald Short (“Plaintiffs”); defendant Federal Highway Administration (“FHWA”); and intervenor-defendants, Billings County, North Dakota (“the County”), and the North Dakota Department of Transportation (“NDDOT”)(collectively, Plaintiffs, FHWA, the County, and NDDOT are referred to as the “Parties”), through undersigned counsel, submit this Proposed Joint Scheduling Plan.

Throughout May and June 2021, counsel for the Parties conferred and agreed as follows:

NO DISCOVERY, PRE-TRIAL, OR TRIAL-RELATED PROCEDURES ARE WARRANTED IN THIS CASE

No Fed. R. Civ. P. 16 conference is required because this action is an appeal of an administrative agency decision. D.N.D. Civ. L.R. 16.1(7). The Parties agree that as an Administrative Procedure Act action, this case can be resolved on cross-motions for summary judgment, based on the administrative record FHWA filed conventionally with the Court. See Doc. 28. References to the administrative record in the Parties' filings shall use the Bates-stamped numbers on the documents.

PROPOSED SCHEDULE FOR SUMMARY JUDGMENT BRIEFING

The Parties propose the following schedule for briefing on cross-motions for summary judgment.

1. On or before August 6, 2021, Plaintiffs will file a motion for summary judgment on all claims brought in the Complaint. Such motion will be accompanied by a memorandum in support not to exceed 40 pages.
2. On or before October 7, 2021, FHWA, the County, and NDDOT will each file their own respective cross-motions for summary judgment on all claims brought in the Complaint. Each such motion will be accompanied by a memorandum, not to exceed 50 pages, both in support of the respective cross-motion and also in response to Plaintiffs' motion for summary judgment.
3. On or before December 22, 2021, Plaintiffs will file memorandums, not to exceed 30 pages each, or 90 pages for a combined brief to all Defendants, that both reply in support of Plaintiffs' summary judgment motion and respond to the cross-motions for summary judgment by FHWA, the County, and NDDOT motions.
4. On or before February 4, 2022, FHWA, the County, and NDDOT will each file their own respective replies in support of their respective cross-motion for summary judgment, not to exceed 20 pages.

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Dated: July 1, 2021

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ORDER

The court **ADOPTS** the parties' proposed schedule for summary judgment briefing without any additions or modifications.

IT IS SO ORDERED.

Dated this 6th day of July, 2021.

/s/ Clare R. Hochhalter

Clare R. Hochhalter, Magistrate Judge
United States District Court